temperature T2 is applied inside the second container, the temperature T1 is higher than the temperature T2 such that a defined volume of culture medium is transferred from the first container to the second container.

Holbrook discloses a method for a microbiological culture system such that the transfer of bacteria from an enrichment medium 1 to a selective medium 2 is accomplished based on the bacteria's motility (see Holbrook's abstract). Thus, Holbrook fails to disclose or suggest the transfer of bacteria based on the temperature change.

Grant discloses a method for a microbiological culture system such that the transfer of defined volumes of liquid can be drawn through the wells 28 by a reduced pressure caused by a device such as a vacuum pump (see Grant's Fig. 3 and col. 6, lines 23-25). Thus, Grant fails to disclose or suggest the transfer of bacteria based on a temperature change.

Taylor discloses a thermally controlled analytical technique such that temperature changes are used to deliver a sample to a channel with a sample delivery system such that chemical reactions may occur (see Taylor's abstract and page 2, lines 7-26). The Office Action on page asserts that it would have been obvious to combine Taylor's thermally controlled analytical technique to the microbiological culture system of Holbrook and Grant. The Applicants respectfully disagree.

Taylor' system relates to analytical reagents, chemical reactions, and thermally expandable gas/liquid. The techniques discussed in Taylor are unrelated to the field of microbiology and the use of culture medium to grow a living organism. Thus, it would not have been predictable to combine Taylor's method of using temperature gradients in an analytical system to Grant or Holbrook's microbiological culture system.

Specifically, it is commonly known to one of ordinary skill in the art of clinical microbiology that you do not purposely induce a fluctuation in a culture's incubation temperature. Support for such an assertion can be found in the Examiner's own references.

Holbrook discloses on page 9, line 23 that the incubation temperature for the culture system is 37 deg. C or up to 41.5 deg. C (which does not mean you purposely change the temperature during the 48 hr incubation period, but simply provides a range of temperatures at which bacteria are generally viable and can be grown). Grant discloses in col. 7, lines 23-25 that the incubation temperature for the culture system is 37 deg. C.

Furthermore, the fluid used in Taylor is preferably a gas (see Taylor's page 15, lines 29-30), and not a culture medium such as in the claims. There is no reasonable expectation that a technique working on a gas could be relevant to transferring living organisms in a culture medium.

Moreover, the typical reaction volumes used in Taylor are about 30 microliters, and preferably are even lower (see Taylor's page 7, line 12). As disclosed in Applicants' specification the volume of culture medium being delivered could be up to 1 milliliter (see Applicants' specification at page 6, lines 2-4, for example). Therefore, the Taylor's disclosed technique would be inadequate for the claimed method of independent claim 1.

Thus, the use of temperature changes in the claimed method for detecting and/or identifying bacteria in light of Taylor's teachings would not have been obvious and/or predictable to one of ordinary skill in the art.

Accordingly, Applicants respectfully request that the rejection be withdrawn.

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,

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